

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 61 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SURENDRASINH UMEDSINH VAGHELA

Versus

COMMISSIONER OF POLICE

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Appearance:

MR ANIL S DAVE for Petitioner

MR KT DAVE AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 15/03/2000

ORAL JUDGEMENT

#. Commissioner of Police, Rajkot City, Rajkot passed an order in exercise of powers under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining the detainee for a period of one year under the provisions of the PASA Act.

#. The grounds of detention indicate that the detaining authority took into consideration two offences registered against the detainee. The detaining authority also considered the possibility of resorting to less drastic remedies and came to conclusion that the detention under the PASA Act is the only efficacious remedy that can be resorted to in order to immediately prevent the petitioner-detenu from pursuing his illegal and anti-social activities of dangerous person as defined under the Act.

#. The detainee challenges the order of detention on various grounds. However, Mr. Anil Dave, learned advocate appearing for the petitioner-detenu has restricted his arguments to the ground of non-supply of relevant documents, though demanded by making a representation. Mr. Dave submitted that this has affected the right of detainee of making an effective representation and the continued detention therefore, would be rendered illegal. The petition may, therefore, be allowed.

#. Mr. K.T.Dave, learned AGP has opposed this petition. However, while going through the files made available to him by personnel from the department, he states that factually it is correct that the representation was made demanding certain documents and the said documents have not been supplied to the detainee although the government had directed the detaining authority to supply the documents.

#. Considering the rival side contentions, the petition deserves to be allowed on solitary ground of non-supply of relevant documents though demanded by the detainee. As stated above, there is no factual dispute about the demand having been raised by the detainee of making a representation, the same having been accepted by the government with a direction to the detaining authority to supply the documents and the documents having not been supplied by the detaining authority to the detainee. This has certainly affected the right of the detainee of making an effective representation as envisaged under Article 22(5) of the Constitution of India. This would vitiate the continued detention and the petition therefore, deserves to be allowed.

#. This petition is allowed. The impugned order of detention dated August 22, 1999 passed against the detainee is hereby quashed and set aside. The detainee - Surendrasinh Umedsinh Vaghela, is ordered to be set at

liberty forthwith, if not required in any other matter.  
Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

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